

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Robert Arace, Barbara Arace, John Battie, Caroline Smith and Sharon Mack

DEFENDANTS

Waste Management of Pennsylvania, Inc.

(b) County of Residence of First Listed Plaintiff Burlington

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Bucks

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kevin S. Riechelson, Esquire, Kamensky Cohen & Riechelson, 194 South Broad Street, Trenton, New Jersey 08608, (609) 394-8585

Attorneys (If Known)

Steven D. Liddle, Esquire, Liddle & Dubin, P.C., 975 E. Jefferson Avenue, Detroit, Michigan 48207, (313) 392-0025

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input checked="" type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1322(d)(2)(a), 1332(d)(3), 1332(d)(4)

Brief description of cause:

Class Action - Odor/Trespass

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 15,000,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/10/14

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

*Robert Grace, Barbara Grace,
John Battle, Carolyn Smith and
Sharon Place*
v.

CIVIL ACTION

Waste Management of PA

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (✓)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

12/10/14
Date

Kevin S. Knechtel
Attorney-at-law

Plaintiffs.
Attorney for

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Telephone

FAX Number

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT ARACE, BARBARA ARACE,)	
JOHN BATTIE, CAROLINE SMITH,)	
and SHARON MACK, on behalf of)	
themselves and all others similarly situated,)	
)	Case No.
Plaintiffs,)	
)	
vs.)	
)	
WASTE MANAGEMENT OF)	
PENNSYLVANIA, INC, a Pennsylvania)	
Corporation)	
)	
Defendant.)	
)	

CLASS ACTION COMPLAINT AND JURY DEMAND

INTRODUCTION

1. Plaintiffs bring this class action against Waste Management of Pennsylvania, Inc. (“Defendant”). Defendant owns and operates the municipal solid waste landfill known as the Tullytown Resource Recovery Facility, which releases pollutants, air contaminants, and noxious odors, causing material injury to Plaintiffs’ property through negligence, gross negligence and nuisance.

PARTIES

2. Plaintiffs, Robert Arace and Barbara Arace reside at 27 Applegate Dr., Florence, New Jersey.
3. Plaintiff John Battie, resides at 42 W. Front St, Florence, New Jersey.
4. Plaintiff, Caroline Smith resides at 203 Boulevard Street, Florence, New Jersey.
5. Plaintiff, Sharon Mack resides at 216 Dogwood Dr., Levittown, Pennsylvania.

6. At all relevant times hereto, Defendant, Waste Management of Pennsylvania Inc., has been a Pennsylvania business corporation. Defendant, its agents, and its predecessors constructed, operate and/or maintain the Tullytown Resource Recovery Facility, located at 200 Bordentown Road, Tullytown, Bucks County, Pennsylvania.

7. At all relevant times herein, Defendant, its agents and its predecessors did and do business in Tullytown, Pennsylvania. There existed and exists a unity of interest and ownership between each of them, such that any individuality and separateness between them has ceased, and each such entity is the alter ego of each other entity.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. §1332(d)(2)(a), §1332(d)(3), and §1332(d)(4). Jurisdiction is proper because the amount in controversy exceeds \$5,000,000, exclusive of interest and costs, and less than two thirds of the members of the putative class are citizens of the state of Pennsylvania, where Defendant is a citizen. Venue is proper in this Court under 28 U.S.C. 1391(b)(2), because a substantial portion of the events or omissions giving rise to Plaintiffs' claims took place in this District, and because much of the property that is the subject of this action is situated in this District.

GENERAL ALLEGATIONS

9. On recurrent and intermittent occasions, Plaintiffs' property including Plaintiffs' neighborhoods, residences and yards have been and continue to be physically invaded by noxious odors, pollutants and air contaminants.

10. The noxious odors, pollutants, and air contaminants which entered Plaintiffs' property originated from the Tullytown Resource Recovery Facility located at 200 Bordentown Road, Tullytown, Bucks County, Pennsylvania ("the landfill").

11. It is Plaintiffs' informed belief that Defendant either constructed or directed the construction of the facilities and exercised control and/or ownership over the landfill.

12. The Pennsylvania Department of Environmental Protection has received numerous complaints from residents concerning the noxious odors emitted from Defendants' landfill

13. The Defendant has received at least one Notice of Violation from the Department of Environmental Protection due to its emission of odors.

14. The invasion of Plaintiffs' property by pollutants, noxious odors, and air contaminants has caused Plaintiffs to suffer injuries including, but not limited to, exposure to pollutants, horrific odors, and air contaminants.

15. The invasion of Plaintiffs' property by pollutants, noxious odors, and air contaminants has interfered with Plaintiffs' use and enjoyment of their property, resulting in damages in excess of \$5,000,000.

16. Defendants intentionally, recklessly, willfully, wantonly, maliciously, grossly and negligently failed to construct, maintain and/or operate the landfill, and caused the invasion of Plaintiffs' property by noxious odors, air contaminants, and other airborne pollutants on intermittent and reoccurring dates.

17. Defendants are vicariously liable for all damages suffered by Plaintiffs, caused by Defendants' employees, representatives and agents, who, during the course and scope of their employment, allowed or failed to correct the problem(s) which caused noxious odors, and air contaminants to physically invade Plaintiffs' property.

CLASS ALLEGATIONS

A. Definition of the Class

18. Plaintiffs bring this action individually and on behalf of all persons as the Court may determine to be appropriate for class certification, pursuant to Federal Rule of Civil Procedure 23. Plaintiffs seek to represent a Class of persons preliminarily defined as:

All owner/occupants and renters of residential property within a 3 mile radius of the Tullytown Resource Recovery Facility.

Excluded from the Class are Defendants and their affiliates, predecessors, successors, officers, directors, agents, servants, or employees, and the immediate family members of such persons. Plaintiffs reserve the right to modify the class definition and/or propose one or more subclasses if discovery reveals such modifications are appropriate.

B. Numerosity

19. Upon information and belief, there are thousands of residents within a 3 mile radius of the landfill. Accordingly, the members of the Class are so numerous that joinder of all parties is impracticable.

C. Commonality

20. Numerous common questions of law and fact predominate over any individual questions affecting Class members, including, but not limited to the following:

- a. whether and how Defendant intentionally, recklessly, willfully, wantonly, maliciously, grossly and/or negligently failed to construct, maintain and/or operate the landfill;
- b. whether Defendant owed any duties to Plaintiffs;
- c. which duties Defendant owed to Plaintiffs;
- d. the way in which the landfill's odors were dispersed over the class area;
- e. whether it was reasonably foreseeable that Defendant's failure to properly construct, maintain and/or operate the landfill would result in an invasion of Plaintiffs' possessory interests;
- f. whether the degree of harm suffered by Plaintiffs and the class constitutes a substantial annoyance or interference; and
- g. the proper measure of damages incurred by Plaintiffs and the Class.

D. Typicality

21. Plaintiffs have the same interests in this matter as all the other members of the Class, and their claims are typical of all members of the Class. If brought and prosecuted individually, the claims of each Class member would require proof of many of the same material and substantive facts, rely upon the same legal theories and seek the same type of relief.

22. The claims of Plaintiffs and the other Class members have a common origin and share a common basis. The claims originate from the same failure of the Defendant to properly construct, maintain and/or operate the landfill.

23. All Class members have suffered injury in fact resulting in the loss of property value by reason of Defendant's failure to properly construct, maintain and/or operate the landfill.

E. Adequacy of Representation

24. Plaintiffs' claims are sufficiently aligned with the interests of the absent members of the Class to ensure that the Class claims will be prosecuted with diligence and care by Plaintiffs as representatives of the Class. Plaintiffs will fairly and adequately represent the interests of the Class and do not have interests adverse to the Class.

25. Plaintiffs have retained the services of counsel, who are experienced in complex class action litigation, and in particular class actions involving odors, including those from landfills. Plaintiffs' counsel will adequately prosecute this action and will otherwise protect and fairly and adequately represent Plaintiffs and all absent Class members.

F. Class Treatment Is the Superior Method of Adjudication

26. A class action is superior to other methods for the fair and efficient adjudication of the controversies raised in this Complaint because:

- a. Individual claims by the Class members would be impracticable as the costs of pursuit would far exceed what any one Class member has at stake;

- b. Little or no individual litigation has been commenced over the controversies alleged in this Complaint and individual Class members are unlikely to have an interest in separately prosecuting and controlling individual actions;
- c. The concentration of litigation of these claims in one forum will achieve efficiency and promote judicial economy; and
- d. The proposed class action is manageable.

CAUSES OF ACTION I AND II

PUBLIC AND PRIVATE NUISANCE

- 27. Plaintiffs restate all allegations of this Complaint as if fully rewritten herein.
- 28. The noxious odors, pollutants, and air contaminants which entered Plaintiffs' property originated from the landfill constructed, maintained and/or operated by Defendants.
- 29. The odors, pollutants and air contaminants invading Plaintiffs' property are indecent and/or offensive to the senses, and obstruct the free use of their property so as to substantially and unreasonably interfere with the comfortable enjoyment of life and/or property, including in but not limited to the following ways:
 - a. causing Plaintiffs to remain inside their homes and forego use of their yards;
 - b. causing Plaintiffs to keep doors and windows closed when weather conditions otherwise would not so require; and
 - c. causing Plaintiffs embarrassment and reluctance to invite guests to their homes.
- 30. Defendant owed and continues to owe a duty to Plaintiffs to take positive action to prevent and/or abate the interference with the the invasion of the private interests of the Plaintiffs.
- 31. By constructing and then failing to reasonably repair and/or maintain its landfill, Defendants have negligently created an unreasonable risk of foreseeable harm by causing the

invasion of Plaintiffs' property by noxious odors, pollutants, and air contaminants.

32. As a foreseeable, direct and proximate result of the foregoing conduct of Defendants, Plaintiffs suffered injuries and damages to their property as alleged herein.

33. The injuries and damages suffered by Plaintiffs are specially injurious to themselves because they uniquely suffer harm relating to the use and enjoyment of their land and property, and decreased property values, which are not harms suffered by the general public.

34. Plaintiffs did not consent for noxious odors, pollutants and air contaminants to enter and settle upon their land and property.

35. By causing noxious odors, pollutants, and air contaminants produced and controlled by Defendants to physically invade Plaintiffs' land and property, Defendants intentionally, recklessly, and negligently created a nuisance which substantially and unreasonably interfered with Plaintiffs' use and enjoyment of their property.

36. Whatever social utility Defendant's landfill provides is clearly outweighed by the harm suffered by the Plaintiffs and the putative class, who have on frequent occasions been deprived of the full use and enjoyment of their properties and have been forced to endure substantial loss in the value of their properties.

37. Defendants' substantial and unreasonable interference with Plaintiffs' use and enjoyment of their property constitutes a nuisance for which Defendants are liable to Plaintiffs for all damages arising from such nuisance, including compensatory, exemplary, injunctive and punitive relief since Defendants actions were, and continue to be, intentional, willful, malicious and made with a conscious disregard for the rights of Plaintiffs, entitling Plaintiffs to compensatory and punitive damages.

CAUSE OF ACTION III

NEGLIGENCE/GROSS NEGLIGENCE

38. Plaintiffs restate all allegations of this Complaint as if fully rewritten herein.

39. On occasions too numerous to mention, Defendant negligently and improperly constructed, maintained and/or operated the landfill such that it caused the emission of noxious odors, pollutants, and air contaminants onto Plaintiffs' homes, land and property.

40. As a direct and proximate result of Defendant's negligence and gross negligence in constructing, maintaining and/or operating the landfill, Plaintiffs' property, on occasions too numerous to mention, was invaded by noxious odors, pollutants, and air contaminants.

41. As a further direct and proximate result of the foregoing conduct of the Defendant, Plaintiffs suffered damages to their property as alleged herein.

42. The invasion and subsequent damages suffered by Plaintiffs were reasonably foreseeable by the Defendant.

43. By failing to properly construct, maintain and/or operate its landfill, Defendant failed to exercise its duty of ordinary care and diligence so that noxious odors, pollutants, noise, dust, debris and air contaminants would not invade Plaintiffs' property.

44. A properly constructed, operated, and maintained landfill will not emit substantial odors and/or air pollutants into neighboring residential areas.

45. By failing to construct, maintain and/or operate its landfill, Defendant has intentionally caused the invasion of Plaintiffs' property by noxious odors, pollutants, and air contaminants.

46. Defendant knowingly breached its duty to exercise ordinary care and diligence when it improperly constructed, maintained and/or operated the landfill and knew, or should have known upon reasonable inspection that such actions would cause Plaintiffs' property to be invaded by noxious odors, pollutants, and air contaminants.

47. As a direct and proximate result of the failure of Defendant to exercise ordinary care, Plaintiffs' residences were invaded by noxious odors, pollutants, and air contaminants.

48. The conduct of Defendant in knowingly allowing conditions to exist which caused noxious odors, pollutants, and air contaminants to physically invade Plaintiffs' property constitutes gross negligence as it demonstrates a substantial lack of concern for whether an injury resulted to Plaintiffs.

49. Defendants' gross negligence was malicious and made with a wanton or reckless disregard for the lives, safety or property of Plaintiffs, which entitles Plaintiffs to an award of compensatory, exemplary, and punitive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the proposed Class, pray for judgment as follows:

A. Certification of the proposed Class pursuant to Federal Rule of Civil Procedure 23;

B. Designation of Plaintiffs as representative of the proposed Class and designation of their counsel as Class counsel;

C. Judgment in favor of Plaintiffs and the Class members and against Defendant;

D. Award Plaintiffs and the Class members compensatory and punitive damages, and attorneys' fees and costs, including pre-judgment and post-judgment interest thereupon;

E. An Order holding that entrance of the aforementioned odors upon Plaintiffs' property constituted a nuisance;

F. Temporary, preliminary, and permanent orders for injunctive relief requiring Defendants to expeditiously repair or correct the operation of the facilities in a manner that is practically abatable and economically feasible as determined by Plaintiffs' expert, so that odors, pollutants, and air contaminants no longer invade Plaintiffs' property;

G. Such further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Dated: December 10, 2014

KAMENSKY COHEN & RIECHELSON



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Nicholas A. Coulson (*Pro Hac Vice to be filed*)
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(313) 392-0025

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice list.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 10, 2014

By: 